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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,600	11/26/2001	Kenji Abiko	P 21273	6604

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EXAMINER

WILKINS III, HARRY D

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/926,600

Applicant(s)

ABIKO, KENJI

Examiner

Harry D Wilkins, III

Art Unit

1742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

## PERIOD FOR REPLY (check either a) or b)

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1 ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2 ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

- 3 ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4 ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5 ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet  
6 ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7 ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-6

Claim(s) withdrawn from consideration: \_\_\_\_\_

- 8 ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9 ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s): \_\_\_\_\_.  
10 ☐ Other: \_\_\_\_\_

Continuation of 5 does NOT place the application in condition for allowance because regarding the rejection over Fujisawa, please see MPEP 2144.05, particularly the discussion of *Titanium Metals v. Banner* which states that a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. Applicant has not shown that there are unexpected results only within the presently claimed range and outside the range of the prior art. Regarding the rejection over Shida in view of Abiko, while Shida does not recognize the need for workability in the alloy, one of ordinary skill in the art would have considered the improvement taught by Abiko would apply similarly to the alloy of Shida, thus enabling the alloy of Shida to have improved workability. Working of an alloy can lead to improved properties, such as work hardening. Shida merely teaches upper limits of impurities, and used conventional methods to reduce those impurities. That Shida achieved levels of impurities that are well above the presently claimed ranges is not surprising, given that Abiko teaches an improved method of reducing impurities, which was invented at a later date than the alloy Shida. Thus, the improved method of reducing impurities would have been applied to the alloy of Shida for the purpose of reducing the impurities, which, as taught by Abiko, improves the workability of Cr-Fe alloys.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry Wilkins, III whose telephone number is (703) 305-9927. The examiner can normally be reached on Monday-Thursday 10:00 am - 8:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Roy King can be reached on (703) 308-1146. The fax phone numbers for the organization where this application of proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-4651.

August 12, 2003  
hdw

Harry D. Wilkins, III  
Examiner  
Art Unit 1742

RON KING  
SUPERVISOR  
TECHNICAL STAFF